

State of California



Fair Political Practices Commission

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Technical Assistance	••	Administration	••	Executive/Legal	••	Enforcement	••	Statements of Economic Interest
(916) 322-5662		322-5660		322-5901		322-6441		322-6444

February 5, 1985

Honorable David Roberti
State Senator
State Capitol
Sacramento, CA 95833

Re: Your Request for Advice
Our File No. A-85-002

Dear Senator Roberti:

This letter is sent in response to a telephone inquiry you made regarding the financial disclosure provisions of the Political Reform Act.^{1/} You asked whether you must report the receipt of a gift in the following situations:

1. One of your neighbors has performed extensive carpentry work in your home during the past year. You paid for all of the necessary materials, and your neighbor is not a carpenter by trade.

2. Another friend of yours is constructing a wooden patio screen for your home. You approximated the fair market value of the screen at \$400 or \$500.

As you know, elected state officials are required to report all income, investments and interests in real property on annual financial disclosure statements. Section 87200, et seq. Income includes all gifts received during the period covered by the statement which have a value of \$50 or more. Section 87207(a)(1). "Gift" is defined to include "any payment to the extent that consideration of equal or greater value is not received." Section 82028.

As I mentioned to you on the telephone, the Commission rendered an opinion on whether volunteer personal services

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted.

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rendered by the neighbor of an official were a gift to the official within the meaning of the Act. Opinion requested by Kenneth Cory, 1 FPPC Opinions 153 (No. 75-094-B, October 23, 1975) (copy enclosed). The Commission held that normal or customary types of services rendered by a neighbor would not be gifts. The Commission reasoned as follows:

In any tolerable society, people lend assistance to their acquaintances and even to strangers in ways which have theoretical economic value but do not, in any real sense, represent economic transactions. It is absurd to suppose that the repairing of a fence by a neighbor, the offering of a ride, the fixing of a flat tire or hundreds of similarly friendly acts are "gifts" which must be reported under the Act. Just as volunteer services in political campaigns represent little threat to the electoral process and, therefore, are excluded from the definition of "contribution," Section 82015, everyday acts of fellowship constitute little threat to the integrity of public officials.

1 FPPC Opinions 153 at p.3.

Based on this opinion, it is our view that a legislator has not received a reportable gift if the legislator is the beneficiary of voluntary services personally rendered by a neighbor or friend who is not lobbying and does not intend to lobby the Legislature;^{2/} and the following criteria are met:

1. The neighbor or friend is not in the business or trade for those services; and
2. The neighbor or friend spent less than \$50 for the materials used in providing the services.

On the other hand, if the individual is either in the business of providing those services or if he or she spends \$50 or more on materials, then the legislator has received a gift of services as well as any materials which must be reported.

Accordingly, in the first situation you raised, since you paid for all of the necessary materials, and your neighbor is not in the business of providing carpentry services, you have not received a reportable gift, and vice versa.

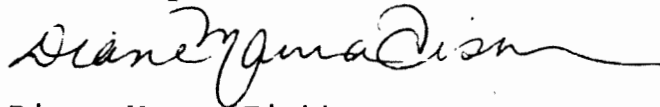
^{2/} The rule might be somewhat different with respect to the officials of other agencies.

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As to the patio screen, whether there has been a reportable gift depends both on whether your friend purchased materials costing \$50 or more and whether he is in the business of building patio screens or similar items.

Please feel free to contact me at (916) 322-5901, if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script, reading "Diane Maura Fishburn", with a long horizontal flourish extending to the right.

Diane Maura Fishburn
Counsel
Legal Division

DMF:plh
Enclosure